



Appn. No. 09/501,970
Reply Brief dated Dec. 5, 2003
Reply to Examiner's Answer of Dec. 2, 2003

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Appellant : Christer Almqvist
Serial No. : 09/501,970
Filed : February 10, 2000
TC/A.U. : 2643
Examiner : Sinh N. Tran

Confirmation No.: 4605

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Technology Center 2600

Docket No. : 00-148
Customer No. : 34704

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

Initially Appellant wishes to acknowledge the Examiner's allowance of claims 1-3, 5 and 7. The only claim that remains on appeal is independent claim 6.

In the Examiner's response to argument set forth in Paragraph 11, the Examiner responds to the argument presented by Appellant in paragraph (A) starting on Page 5 of Appellant's Appeal Brief. Appellant maintains this argument and believes that the Examiner has failed to overcome the argument vis-à-vis hindsight reconstruction.

However, it is noted that the Examiner never **ADDRESSES THE ARGUMENTS PRESENTED BY APPELLANT IN PARAGRAPH (B) STARTING ON PAGE 7 OF APPELLANT'S BRIEF.** Appellant specifically sets forth the following:

"As the Examiner has stated in the final rejection, the primary and secondary references fail to "disclose that buttons within each group is located in a separate recess or depression". Sayler does not cure this deficiency. As noted previously, in order to achieve the object of the present invention, that is, allow the user to put his hand on the ear cup where his fingers would automatically come into correct position for allowing him to conveniently operate the button sets, one of the auditory cups is provided with a plurality of depressions or recesses.....The depressions have a plurality of buttons wherein each plurality of buttons in each recess constitutes a button set. Each button set has a group of buttons which are functionally connected to one another. That is, buttons 18, 18' used to influence balance are in one depression. Buttons 19, 19' which are connected for volume control are in another recess. Buttons 20, 20' which are for channel searching are in another recess, and so on. Thus, each recess includes a plurality of buttons which operate the same function for the radio unit of the acoustical headset.....By providing separate recesses for each function, the wearer can readily feel, without need of looking where his fingers should be to operate the desired button set.....Nothing in Sayler suggests the foregoing arrangement nor the advantages achieved thereby in an acoustical headset."

As the Examiner stated in his final rejection, neither the primary nor secondary reference disclosed buttons within each group located in separate recesses and depressions. It is submitted that the tertiary reference to Sayler et al. does not cure this deficiency. In Sayler et al. all the buttons to be operated by the right hand are located in the same depression while all the buttons to be operated by the left hand are to be located in the same position. The device of Sayler et al. is designed to be handheld and thus visible to the user. The acoustic headsets of the present invention are not handheld nor are the buttons on the acoustical headset visible to the user when the acoustical headset is being used. The Examiner's rejection is in error and should be reversed especially in light of the fact that the Examiner has not in any way addressed the arguments presented by Appellant in the previously submitted Appeal Brief and restated in the instant Reply Brief.

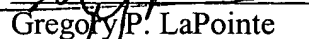
The Examiner's rejection of independent claim 6 should be withdrawn.

A check in the amount of \$600.00 was previously submitted to cover the costs of an Oral hearing, previously requested, and the Appeal Brief Fee. Should the Commissioner determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,


CHRISTER ALMQVIST

By


Gregory P. LaPointe
Attorney for Appellant
Reg. No. 28,395

Date: December 5, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on December 5, 2003.


Lori J. Larson